IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 628/2006
(Surendrapal Singh Vs. State of Rajasthan & Anr.)

Date of Order : 28/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Devendra Mahalana for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Arjun Purohit on behalf of
Mr. Iqbal Sherani for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 25.2.2006 passed by Additional Sessions Judge, Ratangarh (for short 'the revisional court' hereinafter), in Criminal Revision No.86/2001 whereby the revision petition filed by the petitioner against the order dated 24.8.2001 passed by Judicial Magistrate, First Class, Sujangarh (for short 'the trial court' hereinafter), dismissing the application filed by the petitioner under Section 258 Cr.P.C., was dismissed.

I have heard learned counsel for the parties.

Carefully gone through the orders passed by the revisional court as well as by the trial court.

The petitioner filed an application under Section 258 Cr.P.C. before the trial court stating therein that from the date of arrest of the petitioner i.e. on 21.3.1998, within six months the police failed to complete the investigation and file the challan and therefore, requested the trial court to drop the proceedings in view of the provisions of Sub-Section (5) of Section 167 Cr.P.C. That application came to be dismissed by the trial court, against which the petitioner filed a revision petition. The revisional court has also dismissed the revision petition. In the meanwhile, on 03.12.1998 the police filed challan and the trial court took the cognizance of the offence. The matter was posted for framing of charge on 24.8.2001.

Sub-section (5) of Section 167 Cr.P.C. provides that if in any case triable by a Magistrate as a summons-case, the investigation is not concluded within period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice, continuation of the investigation beyond the period of six months

is necessary.

A plain reading of sub-section (5) of Section 167 Cr.P.C. makes is clear that if the investigation is not completed within six months from the date of arrest of the accused, the Magistrate shall make an order stopping further investigation and if the investigating officer satisfies the Magistrate to continue the investigation beyond the period of six months, the Magistrate may permit so.

In the instant case neither the Magistrate has stopped the proceedings on account of non-completion of investigation within period of six months from the date of arrest of the accused, nor stopped the investigation but allowed the investigating agency, to investigate the matter and thereby the investigating agency has investigated the matter and filed the challan and thereafter the trial court took cognizance of the offence and posted the matter for framing of charge. Thus, the stage of stopping the investigation as provided in sub-section (5) of Section 167 Cr.P.C. has already crossed. In the circumstances, therefore, in my view, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of the process of any Court.

The petition is therefore, dismissed. However, since the matter is of the year 1998, it would be expedient to direct the trial court to dispose of the matter utmost expeditiously preferably within a period of six months from the date of receipt of copy of this order.

(H.R.PANWAR),J.

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